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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,934	06/28/2001	Michel C. Renaud	AD 6737 US NA	8328

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E I DU PONT DE NEMOURS AND COMPANY
LEGAL DEPARTMENT - PATENTS
1007 MARKET STREET
WILMINGTON, DE 19898

EXAMINER

HOOK, JAMES F

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 11/30/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/681,934

Applicant(s)
Renaud

Examiner
James F. Hook

Art Unit
3752



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) ☐ Other:

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DETAILED ACTION

1. It should be noted that originally filed claims omitted claim 7, therefore original claims 8-12 have been renumbered 7-11, such should be noted with respect to the rejections below.

Claim Rejections - 35 USC § 112

2. Claims 2, 4, and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 2, the “bending section” and “restrained elongation section” are positively recited again, however they are positively recited in claim 1 already and it is not clear whether the structure set forth in claim 2 is a second structure or the same structure being positively recited again, thereby rendering the claim indefinite, if the structure of claim 2 is intended to be a second separate structure then a different name should be used to describe it or it should be positively recited as a “second” structure. In claim 4, the “bending section” and “restrained elongation section” are positively recited again, however they are positively recited in claim 1 already and it is not clear whether the structure set forth in claim 4 is a second structure or the same structure being positively recited again, thereby rendering the claim indefinite, if the structure of claim 4 is intended to be a second separate structure then a different name should be used to describe it or it should be positively recited as a “second” structure. In claim 11, there is no additional structure set forth which differentiates claim 11 from the recited apparatus in claim 1

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from which it depends, therefore the claim is indefinite where the scope of the claim cannot be determined when such does not set forth any structure.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

4. Claims 1-3 and 6-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Kleykamp. The patent to Kleykamp discloses the recited flexible tube having a bellows comprising a plurality of convolutes 21 formed in the wall extending along a top surface where the convolutes are spaced from one another in the axial direction, and at least one of the convolutes comprises two opposing bending sections on either side of two restrained sections near 22, and where the height of the bending sections is higher than the restrained sections, there is a transition section 27 between the convolutes and the restrained sections, the width of the restrained sections is smaller than the convolutes, the tube is made of thermoplastic resin, and can be used as an air hose. The use of the tube for other purposes is considered merely intended use. It has been held that a recitation with respect to the manner in which a claimed apparatus is

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intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

5. Claims 1-4 and 6-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Renaud. The patent to Renaud discloses the recited flexible tube having a bellows comprising a plurality of convolutes 15 formed in the wall extending along a top surface where the convolutes are spaced from one another in the axial direction, and at least one of the convolutes comprises two opposing bending sections on either side of two restrained sections, and where the height of the bending sections is higher than the restrained sections, there is a transition section between the convolutes and the restrained sections as seen in figure 7, the width of the restrained sections is smaller than the convolutes, the tube is made of thermoplastic resin, and can be used as an air hose in an automobile. The use of the tube for other purposes is considered merely intended use. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

6. Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Martin. The patent to Martin discloses the recited flexible tube having a bellows comprising a plurality of convolutes 22 formed in the wall extending along a top surface where the convolutes are spaced from one another in the axial direction, and at least one of the convolutes comprises two opposing bending sections on either side of two restrained sections 28, and where the height of the bending sections is higher than the restrained sections, there is a transition section between the convolutes

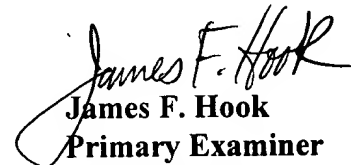
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and the restrained sections, the width of the restrained sections is smaller than the convolutes, the tube is made of thermoplastic resin, and there are provided with another pair of restrained sections dividing the convolutes up even further where the tube is used for fluid flow. The use of the tube for other purposes is considered merely intended use. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Stalter, DeGain, Bauman, Dal Palu, Gipperich, Pflieger (864 and 532) and Jeltsch disclosing state of the art corrugated pipes.
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Hook whose telephone number is (703) 308-2913.

J. Hook
November 19, 2001


James F. Hook
Primary Examiner
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